

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AMADO S. PLA ET AL., :
: Plaintiffs, :
: :
- v - : Defendants. :
: :
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DATE FILED: <u>5/9/2013</u>

12 Civ. 5268 (JMF)

ORDER

RENAISSANCE EQUITY HOLDINGS LLC ET AL., :

Defendants. :

JESSE M. FURMAN, United States District Judge:

For the reasons stated on the record in the conference held earlier today, defendants' Motion to Dismiss as to plaintiffs Amado S. Pla, Kevin Joseph, and Yishmael Levi is GRANTED. (Docket No. 21). Defendants are directed to submit a proposed Judgment consistent with their October 22, 2012 offer of judgment — to the Orders and Judgments Clerk of this Court no later than **5:00 p.m. on May 10, 2013**.

As stated on the record, the Court deems that plaintiffs' Motion for Preliminary Collective Action Certification (Docket No. 14) was filed on behalf of Tawanda Thompson and the other opt-in plaintiffs, and hereby GRANTS that Motion. No later than **May 17, 2013**, the parties are to jointly submit via e-mail (Furman_NYSDChambers@nysd.uscourts.gov), in both word and .pdf formats, a proposed order and a proposed collective action notice for the Court's approval, to be sent to all potential opt-in plaintiffs in this action. The parties shall advise the Court at that time if there are any disputes related to the form or content of the order or notice.

No later than **May 17, 2013**, plaintiffs shall file an amended complaint, replacing Amado S. Pla, Kevin Joseph, and Yishmael Levi with the newly named plaintiffs but making no other

substantive changes to the claims asserted. Defendants shall file their answer to the amended complaint no later than **three (3) weeks** thereafter.

No later than **May 24, 2013**, plaintiffs shall file any motion for Rule 23 class certification. Defendants' opposition, if any, is to be filed no later than **two (2) weeks** after the motion is filed. Any reply is due **one week** thereafter.

It is further ORDERED that all discovery in this case will close **sixty (60) days** after the close of the opt-in period, as specified in the forthcoming Court-approved collective action order and notice. Consistent with this Court's Case Management Plan (Docket No. 11), any motion for summary judgment is due **thirty (30) days** after the close of discovery. In the absence of a summary judgment motion, the Joint Pretrial Order and all related filings are due on that date. If there is a summary judgment motion, those filings are due thirty (30) days after the Court's ruling on the motion or motions for summary judgment.

Finally, as stated on the record, Defendants have consented to Plaintiffs' request for production of documents in the attached letter, dated May 8, 2013. As such, the Court makes no ruling on the discovery dispute.

The Clerk of Court is directed to terminate Amado S. Pla, Kevin Joseph, and Yishmael Levi as parties in this action, to terminate Plaintiffs' Motion for Preliminary Collective Action Certification (Docket No. 14), and to terminate Defendants' Motion to Dismiss (Docket No. 21).

SO ORDERED.

Dated: May 9, 2013
New York, New York



JESSE M. FURMAN
United States District Judge

THE HARMAN FIRM, PC

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May 8, 2013

VIA EMAIL (furman_nysdchambers@nysd.uscourts.gov)

Hon. Jesse M. Furman
United States District Court
for the Southern District of New York
United States Courthouse
500 Pearl Street, Room 630
New York, New York 10007

Re: Pla, et al. v. Renaissance Equity Holdings, LLC, et al.
12 CV 5268 (JMF)

Dear Judge Furman:

We represent the Plaintiffs in the above-referenced matter and write ahead of tomorrow's conference with the Court.

This Thursday May 7, 2013, Plaintiffs deposed Mr. Rafael Garcia, the former Director of Operations at the Flatbush Gardens residential complex. Mr. Garcia was the direct supervisor of all security guards at Flatbush Gardens, including but not limited to the Plaintiffs.

Mr. Garcia no longer works for the Defendants. The circumstances of his departure remain unclear, but Mr. Garcia testified yesterday that he signed an agreement with the Defendants regarding his cessation of employment. Mr. Garcia also testified that although he is represented by the same attorneys as the Defendants, he has not signed a retainer agreement, and that his representation is being paid for by the Corporate Defendants, as part of the agreement regarding the termination of his employment.

On January 22, 2013, Plaintiffs requested "All COMMUNICATIONS, all electronic COMMUNICATIONS, and ALL DOCUMENTS, and All ELECTRONICALLY MEMORIALIZED INFORMATION, relating, reflecting or referring to any changes in Defendant GARCIA's terms and conditions of employment, including but not limited to his termination." On February 21, 2013, Defendants objected to this request and refused to answer. *See Exhibit A*, an excerpt of Defendants' Response to Plaintiffs' Third Requests for the Production of Documents and Interrogatories.

On March 28, 2013, Defendants advised that they "fail to see how such documents have any relevance to Plaintiffs' claims." *See Exhibit B*. On April 8, 2013, Plaintiffs sent Defendants a deficiency letter regarding outstanding deficiencies, including but not limited to the above-mentioned request. *See Exhibit C*.

Again, on April 12, 2013, Defendants refused again to produce responsive

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documents. *See Exhibit D.* Since then, the Parties have had a meet-and-confer but were unable to reach an agreement.

Accordingly, Plaintiffs respectfully request that the Court direct the Defendants to produce such documents at tomorrow's conference, or allow Plaintiffs to move to compel for the production of those documents.

We thank the Court for its time and attention to this matter.

Respectfully submitted,
THE HARMAN FIRM, PC

S/
Peter J. Andrews

cc: Joshua Marcus, Esq. (*via email jmarcus@franklingringer.com*)
Walker G. Harman, Jr. (*via email*)